

**BEFORE THE  
NATURAL RESOURCES COMMISSION  
OF THE  
STATE OF INDIANA**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>PETITION FOR RATE INCREASE BY LAKE MONROE SAILING ASSOCIATION</b>	)	<b>ADMINISTRATIVE CAUSE NUMBER: 12-207P</b>
	)	

**REPORT OF HEARING OFFICER, INCLUDING FINDINGS  
AND PROPOSAL TO THE NATURAL RESOURCES COMMISSION**

**1. PETITION FOR RATE INCREASE BY LAKE MONROE SAILING ASSOCIATION**

On December 16, 2012, Thomas M. Gruenenfelder, on behalf of the Lake Monroe Sailing Association (*LMSA*), submitted correspondence to Gary Miller (*Miller*), Assistant Director of the Department of Natural Resources Division of State Parks and Reservoirs (*Division*) and to the Natural Resources Commission seeking a rate increase for 20 of its 103 slips.

LMSA's Petition explains that the 20 slips to be impacted by the rate increase are 26 foot slips located on the B-dock that are essentially identical to 26 foot slips located on A-Dock. Approximately nine years ago, the A-Dock was replaced and at that time the fees associated with slips on that dock were increased. Through an oversight, when the B-Dock was replaced approximately three years ago, the slip fees were not increased to maintain parity with the nearly identical slips located on A-Dock.

The rate increase sought here by the LMSA will establish an identical rate for 26 foot slips on both A-Dock and B-Dock. For the convenience of the LMSA patrons renting slips on B-Dock, the increased rate will be phased in over a period of three years through a \$73.00 increase in 2014 and a \$72.00 increase in each 2015 and 2016.

The LMSA also included with the Petition a listing of existing rates for similarly sized slips at comparable marinas.

**2. SCOPE OF REVIEW**

The LMSA's Petition is governed by a nonrule policy document approved by the Commission as Information Bulletin #20 (Second Amendment) (*IB #20*) (<http://www.ai.org/nrc/policy/marinara.html>), and published on the INDIANA REGISTER database website as 20091125-IR-312090919NRA. The Commission reflected that the purpose of the information bulletin was to implement an informal process for the review of ratemaking recommendations for resorts and marinas under lease with the Department.

In accordance with IB #20, the LMSA submitted its petition to the Division of Hearings and the Department before January 1 of the year preceding the year in which the proposed rates, if approved, will be implemented. The Division of Hearings notified the LMSA of the assigned administrative cause number, the identity of the hearing officer and provided the hearing officer's electronic mail address for inclusion in the notice required to be provided by the LMSA to its slip and buoy renters.

On or prior to March 1, 2013, the LMSA issued notice to slip and buoy renters containing the information required by IB #20. Particularly, the LMSA patrons were provided the opportunity to offer comments and/or request a public hearing regarding the rate increase petition. As required by IB #20, the notice provided specifically that comments and requests for public hearing were required to be received within fifteen (15) days of receipt of the notice at the hearing officer's electronic or US Postal Service address. The notice also offered the notification that a public hearing would be conducted only if at least 10% of the slip and buoy renters requested a public hearing.

The LMSA issued a total of 221 individual notifications along with providing additional notice through the monthly newsletter. Under IB #20, 22 slip and/or buoy renters would have been required to request a public hearing. The Division of Hearings received no correspondence relating to the LMSA's Petition and no requests for a public hearing.

Petitions, requests, documentation, exhibits, and other pertinent materials concerning the proposed rate request were available for the public to review at the lessee's business office, during normal business hours. A copy of this information was also available for inspection at the Division. In accordance with the existing lease agreements, the Division is to analyze comparable facilities to compare rates with those sought by the lessee. Information used in the analysis is to be available for inspection at the Division in Indianapolis.

The Commission, through IB #20, has delegated the responsibility of determining the lessee's request to the hearing officer, in consultation with the Division, for requests for rate increase of two percent (2%) or less when no public hearing is required. For sought rate increases over two percent (2%) the hearing officer is required to complete a review of the petition, the public comments, the Division's analysis of the provided comparables and in consultation with the Division prepare a written report for Commission consideration. In this instance, the LMSA's petition seeks rate increases of over two percent (2%). Therefore, submission of a report for consideration and ultimate determination by the Commission is required.

The report prepared by the hearing officer is to include written findings with respect to the requested rates and a proposal to the Commission with respect to recommendations to the U. S. Army Corps of Engineers. The hearing officer shall also forward a copy of the report to the lessee, the Division, and any other person who requests a copy. The hearing officer is to present the findings and recommendations to the Commission during a meeting to be held in May or July.

During that meeting, the Commission will either recommend approval of the rates, disapproval of the rates, or approval of rates in an amount less than requested by the lessee. Recommendation for favorable consideration of rates will not be withheld unless, in the opinion of the Commission, the proposed rates exceed fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

### **3. WRITTEN COMMENTS**

The opportunity for the public to submit written comments extended until March 18, 2013. As previously stated the Division of Hearings received no comments or requests for a public hearing associated with the LMSA's Petition.

### **4. RECOMMENDATION BY THE DNR DIVISION OF PARKS AND RESERVOIRS**

As anticipated in IB #20, Miller completed a comparative review of slip rates associated with the LMSA's Petition. Miller's analysis and spreadsheet are attached as Exhibit A and incorporated by reference.

Miller's evaluation included comparison to six (6) marinas located within a 400 mile radius of the LMSA. Miller noted that the LMSA's Petition seeks a 16 – 17% increase, which appears significant, but notes that the increase will result in parity between nearly identical slips on A-Dock and B-Dock, and that the full impact of the increase remains consistent with the rates of comparable marinas.

### **5. FINDINGS AND PROPOSAL BY THE COMMISSION'S DIVISION OF HEARINGS**

#### **A. Findings**

The scope of the review accorded by the Commission in IB #20 is addressed to petitions for rate establishment or increase at marinas and related facilities on properties owned or leased by the Department of Natural Resources (*Department*). Although the Department may appropriately exercise whatever rights are provided in a ground lease with respect to marina facilities, as well as any other rights provided by law or equity, the scope of review for the purpose of setting rates at marinas and related facilities is determined by IB #20, which specifies that the lessee "shall include justification for the request along with comparable rates from other marinas." IB #20 proceeds to specify that "the department will analyze comparable facilities to compare rates with those sought by the lessee."

The Commission's role in the setting of rates at marina facilities on Department leased or owned properties is to offer a recommendation regarding the appropriateness of the rates to the U.S. Army Corps of Engineers. In exercising its responsibility to offer a recommendation to the U.S. Army Corps of Engineers, the Commission has charged the appointed hearing officer with the responsibility to review the record, which includes the

lessee's request and any supporting documentation, written comments provided by affected persons and the analysis by the Division in preparing a report and proposing a recommendation for Commission consideration.

The Commission, through its adoption of IB #20, established as fundamental to a determination of the appropriateness of a proposed rate the consideration of rates charged by comparable marinas. The comparison therefore requires identification of marinas providing services comparable to those provided by the LMSA. That review reveals that the proposed fees are consistent with fees of other marinas within a 400 mile radius as required by IB #20.

It is also noted that the LMSA is seeking the rate increase for the purpose of rectifying a previous oversight in order to maintain equality of rates throughout the marina.

### **B. Proposal**

Based upon the information available the Hearing Officer recommends that the Commission approve the LMSA's Petition to increase the rate for 26 x 12 slips on B-Dock over a period of three years to a total of \$1526.00. The slip fees would be \$1382.00 in 2014, \$1454.00 in 2015 and \$1526.00 in 2016, as reflected in Exhibit B, the "Projected 2014 – 2016 Fees" document provided by the LMSA, which is incorporated by reference.

It is recommended further that the Natural Resources Commission recommend approval of this rate increase by the U.S. Army Corps of Engineers.

Dated: April 3, 2013

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Sandra L. Jensen  
Hearing Officer

### **Service List:**

cc: Gary Miller, DNR, Division of State Parks and Reservoirs  
Thomas M. Gruenenfelder, Lake Monroe Sailing Association

**EXHIBIT A**

March 12, 2013

To: Sandra Jensen, Administrative Law Judge  
Natural Resources Commission  
100 N. Senate Ave, RM N501  
Indianapolis, IN 46204

Fr: Gary Miller, Assistant Director  
Indiana State Parks and Reservoirs  
402 W. Washington St. RM W298  
Indianapolis, IN 46204

Re: Lake Monroe Sailing Association rate increase request, Administrative Cause No. 12-0207P

The Division of State Parks and Reservoirs has completed the review of comparable rates for Lake Monroe Sailing Association in regard to their request for a slip rate increase for the 2014-2016 seasons. Attached is a spreadsheet with comparable marinas within a 400 mile radius as per Bulletin # 20.

The request increase is in the 16-17%% range and the requested rates appear to be justified. This request is to bring the improved "B" dock slips to the same rate as those of "A" dock which had previously been improved and a rate increase was approved by the DNR at that time. Both of these docks were upgraded from wooden docks to docks with concrete walkways and fingers.

Just as when the marina requested a rate increase for the upgraded "A" Dock, the division again reviewed marina rates for comparable marinas. Even though the requested rates appear to be a high percentage, the rate will be implemented over a three year period with the average increase being approximately \$72.00 per year.

The average rate per foot per month for the comparable marinas is \$8.52. This number is calculated by taking the flat slip rate divided by the length divided by months of the lease. Comparably facilities include both annual and seasonal terms. The current rate at LMSA is \$7.59/ft/month and 2016 rate would be \$8.38/ft/month putting the facility on par with the average rate

As their dock application shows, there are still lower cost options available to the boaters at this location.

The Division of State Parks and Reservoirs supports the request as submitted.

## AGENDA ITEM #10

### Marina Rate Comparability *Lake Monroe Sailing Association*

Marina Name	Slip Size	Price	\$/ft/month	Comments
Lake Monroe	28'	\$2,495.00	\$12.73	7 Month Season
Lake Monroe	20'	\$1,500.00	\$6.25	Yearly Rental
Lake Pakota	24'	\$985.00	\$6.84	6 Month season
Lake Pakota	28'	\$1,200.00	\$7.14	6 Month season
Hoosier Hills	24'	\$950.00	\$3.30	Yearly Rental
Hoosier Hills	24'	\$2,000.00	\$6.94	Yearly Covered
Kents Harbor	24'	\$1,885.00	\$6.55	Yearly Rental
Kents Harbor	28'	\$2,995.00	\$11.71	7 Month Season
Four Winds	26'	\$2,200.00	\$12.09	7 Month Season
Quakertown	<30'	\$1,590.00	\$11.65	5 1/4 Month Season
AVERAGE PRICE \$/FT/MONTH			\$8.52	
LMSA	26	\$1,382.00	\$7.59	7 Month Season
LMSA	26	\$1,454.00	\$7.99	7 Month Season
LMSA	26	\$1,526.00	\$8.38	7 Month Season

**EXHIBIT B**

<b>Item</b>	<b>Projected 2014-2016 Fees</b>			<b>2016</b>
	<b>2013</b>	<b>2014</b>	<b>2015</b>	
A-Dock Slips				
24 x 12	1415	1415	1415	1415
26 x 12	1526	1526	1526	1526
30 x 14	1632	1632	1632	1632
32 x 14	1744	1744	1744	1744
34 x 14	1855	1855	1855	1855
C, D, and North Bay Slips				
22 x 12	1145	1145	1145	1145
24 x 12	1198	1198	1198	1198
26 x 12	1309	1309	1309	1309
B-Dock Slips				
26 x 12	1309	1382	1454	1526